

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

NEIL SHANE,

Plaintiff,

v.

Civil No. 09-1231-HA

ORDER

UNITED STATES SECRET SERVICE,

Defendant.

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HAGGERTY, District Judge:

Plaintiff, acting *pro se*, filed what appears to be a tort claim against the United States Secret Service requesting monetary damages for "[i]mproper responding to C.I. reports by Burlington, Boston, Portland leading to job loss." Defendant moved to dismiss plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1). For the following reasons, defendant's Motion to Dismiss [3] is GRANTED.

The Ninth Circuit upholds a "policy of liberal construction in favor of *pro se* litigants."

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*Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998). Litigants have a statutory right to self-representation in civil matters, *see* 28 U.S.C. § 1654 (1982), and are entitled to meaningful access to the courts. *Rand*, 154 F.3d at 957, citing *Bounds v. Smith*, 430 U.S. 817, 823 (1977); *Wolff v. McDonnell*, 418 U.S. 539, 579 (1974). "Consequently, we tolerate informalities from civil *pro se* litigants." *Id.* (citations omitted).

Nevertheless, "[p]ro se litigants must follow the same rules of procedure that govern other litigants," and a district court may grant a well-taken motion for dismissal. *King v. Atiyeh*, 814 F.2d 565, 568 (9th Cir. 1987) (citation omitted).

Defendant moves to dismiss plaintiff's Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) because plaintiff failed to first present his claim to the United States Secret Service for administrative disposition in accordance with 28 U.S.C. § 2675(a). Failure to exhaust administrative remedies is a jurisdictional prerequisite to filing a tort claim against the United States. *Id.*; *McNeil v. United States*, 508 U.S. 106, 111 (1993). Such a failure requires dismissal.

## **CONCLUSION**

For the reasons provided, this court concludes defendant's Motion to Dismiss [3] must be GRANTED and this case is DISMISSED.

IT IS SO ORDERED.

DATED this 25 day of February, 2010.

/s/ Ancer L. Haggerty  
Ancer L. Haggerty  
United States District Judge